IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUMMONS FOR JUDGMENT NO.217 OF 2007
IN
SUMMARY SUIT NO.2945 OF 2006

Shhailesh Digambar Tendulkar ..Plaintiff.
Vs.
Prashant Varnekar
Sole Proprietor of
M/s. Mohit Tours ..Defendant.

....

Mr. S.A. Abhyankar for the Plaintiff.
None for the Defendant.

....

CORAM: **DR. D.Y. CHANDRACHUD, J.**

5th June, 2007.

P.C. :

1. The Defendant carries on the business of a tour operator. The Plaintiff had deposited with the Defendant an amount of Rs.4,21,921/- for a tour to Europe. The tour was cancelled by the Defendant. In the part payment of the amount deposited by the Plaintiff, the Defendant issued a cheque in the amount of Rs.3,46,921/- dated 27th May, 2006 drawn on ICICI Bank Limited. The cheque was dishonoured on presentation. The Plaintiff

thereupon addressed advocate's notices dated 14th June, 2006, 8th July, 2006 and 8th August, 2006 to the Defendant. It has been averred in paragraph 5 of the Plaint that thereafter an amount of Rs.1.40 lacs was paid by the Defendant to the Plaintiff leaving a balance of Rs.2,06,921/-.

2. The Defendant has been served with the writ of summons and has entered appearance. Counsel appearing for the Plaintiff states that the Defendant has also been served with the Summons for Judgment and undertakes to file an affidavit of service within one week from today. No reply has been filed by the Defendant to the Summons for Judgment. However, counsel appearing for the Plaintiff has placed on the record a reply dated 8th August, 2006 of the Defendant's advocate to the Plaintiff's notice dated 15th June, 2006 in which it was alleged that a sum of Rs. 2 lacs was paid in cash to the Plaintiff. In paragraph 7 of the Plaint the Plaintiff has denied receipt of any such amount. In fact, from the Defendant's reply dated 8th July, 2006 it is evident that the Defendant has not disputed receipt of the amount paid by the Plaintiff for making a reservation on the tour to

Europe, the cancellation of the tour and the issuance of a cheque in the amount of Rs.3,46,921/- which was dishonoured. The Defendant has absolutely no defence and has in fact not filed a reply to the Summons for Judgment. The Suit shall accordingly stand decreed as prayed in terms of prayer clauses (a) and (b). The Summons for Judgment is accordingly made absolute.